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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,

14 v.

15 FRANCISCO MUNGUIA,
a/k/a "Chubs,"

16 Defendant.
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CASE NO. CR 13-00505 EJD (PSG)

STIPULATION AND ~~[PROPOSED]~~ PROTECTIVE
ORDER REGARDING DISCOVERY MATERIALS

19 With the agreement of the parties and defendant's consent, the Court enters the following Order:
20 Defendant is charged with violations of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(viii),
21 Possession with Intent to Distribute, and Distribution of, Methamphetamine. Per defendant's anticipated
22 disclosure request, the United States will produce certain materials, including documents and audio and
23 video recordings, pertaining to the defendant and the charged drug transaction (hereinafter, the
24 "DISCOVERY MATERIALS") to defense counsel, in lieu of making those DISCOVERY
25 MATERIALS available for review only. Any such materials are deemed produced pursuant to the
26 following restrictions:
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FILED

MAR 21 2014

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 1. Except when actively being examined for the purpose of the preparation of the
2 defense of defendant, the DISCOVERY MATERIALS shall be maintained in a locked or otherwise safe
3 and secure location, which is accessible only to defense counsel, members of his or her law firm who are
4 working with him or her to prepare defendant's defense, and his or her investigator(s). Defense counsel,
5 members of his or her law firm, defendant, and the investigator(s) shall not permit any person access of
6 any kind to the DISCOVERY MATERIALS except as set forth below.

7 2. The following individuals may examine the DISCOVERY MATERIALS for the
8 sole purpose of preparing the defense of defendant and for no other purpose:

- 9 a) counsel for defendant;
10 b) members of defense counsel's law office;
11 c) defendant, but only in the presence of defense counsel or another
12 authorized person listed in this paragraph (defendant may not take or
13 maintain the DISCOVERY MATERIALS or copies thereof); and
14 d) investigators retained by defendant to assist in the defense of this matter.

15 If defense counsel determines that additional persons are needed to review the
16 DISCOVERY MATERIALS, he or she must obtain either the United States' consent or a further order
17 of the Court before allowing any other individual to review the materials.

18 3. A copy of this Order shall be maintained with the DISCOVERY MATERIALS at
19 all times.

20 4. All individuals other than defense counsel and defendant who receive access to
21 the DISCOVERY MATERIALS, prior to receiving access to the materials, shall sign a copy of this
22 Order acknowledging that:

- 23 a) they have reviewed the Order;
24 b) they understand its contents;
25 c) they agree that they will only access the DISCOVERY MATERIALS for
26 the purposes of preparing a defense for defendant; and
27 d) they understand that failure to abide by this Order may result in sanctions
28 by this Court.

1 Counsel for defendant shall either: (1) send signed copies of the Order to counsel
2 for the United States; or (2) file signed copies of the Order, ex parte and under seal. The United States
3 shall have no access to the signed copies filed under seal without further order of the Court.

4 5. No other person shall be allowed to examine the DISCOVERY MATERIALS
5 without further order of the Court. Examination of the DISCOVERY MATERIALS shall be done in a
6 secure environment which will not expose the materials to other individuals not listed above.

7 6. The DISCOVERY MATERIALS may be duplicated to the extent necessary to
8 prepare the defense of this matter. Any duplicates will be treated as originals in accordance with this
9 Order.

10 7. If the DISCOVERY MATERIALS are attached to any pleadings or other court
11 submissions, the DISCOVERY MATERIALS and any pleadings or submissions referencing those
12 materials shall be filed or lodged under seal.

13 8. The defense team shall return the DISCOVERY MATERIALS (and any duplicate
14 copies of the same) to the United States fourteen calendar days after any one of the following events,
15 whichever is latest in time, occurs: dismissal of all charges against the defendant; the defendant's
16 acquittal by court or jury; or the conclusion of any direct appeal on the defendant's behalf.


17 9. After the conclusion of proceedings in the district court or any direct appeal in the
18 above-captioned case, the United States will maintain a copy of the DISCOVERY MATERIALS. The
19 United States will maintain the DISCOVERY MATERIALS until the time period for filing a motion
20 pursuant to 28 U.S.C. § 2255 has expired. After the statutory time period for filing such a motion has
21 expired, the United States may destroy the DISCOVERY MATERIALS. In the event the defendant is
22 represented by counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide
23 defense counsel with a copy of the DISCOVERY MATERIALS under the same restrictions as trial and
24 direct appeal defense counsel. Defense counsel in any action under 28 U.S.C. § 2255 shall return the
25 same materials fourteen calendar days after the district court's ruling on the motion or fourteen calendar
26 days after the conclusion of any direct appeal of the district court's denial of the motion, whichever is
27 later.

1 Dated: March 20, 2014

MELINDA HAAG
United States Attorney

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3 /s/
4 CASEY O'NEILL
5 Special Assistant United States Attorney

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8 Dated: March 21, 2014

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10 Name: THOMAS J. FERRITO
11 Counsel for defendant Francisco Munguia

12 IT IS SO ORDERED that disclosure of the above-described materials shall be restricted as set
13 forth above.

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15 Dated: March 21, 2014

16 P.S. Grewal
17 HON. PAUL S. GREWAL
18 United States Magistrate Judge
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